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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,520

09/23/2003

Keith E. Woodruff

402-1110-2-CIP

1859

7590

12/23/2004

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EXAMINER

PALO, FRANCIS T

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,520

Applicant(s)

WOODRUFF, KEITH E.

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14 is/are rejected.
- 7) ☒ Claim(s) 6-13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because **reference character “66” has been used to designate both, openings defined in the rear of the panel (4) [page-15, lines 8 and 9], and lower raised ribs (page-15, line-16), [also see Figures 7 and 8].**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the **numerical reference characters** in the figures **are not** plain and **legible**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

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Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

Appropriate correction is required.

In the introduction paragraph, the cited application number should be updated to reflect the patent status; and the last two paragraphs are identical.

Claim Objections

Claim-2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Regarding claim-2:

"Said means for mounting" as cited in claim-2, is cited as "means for removably mounting" in claim-1; therefore, "means for removably mounting" as cited in claim-2 is redundant over the initial "means for mounting cited in claim-2, and since "means for removably mounting" is already cited in claim-1, claim-2 is redundant and unnecessary.

The claim should be canceled or amended to cite specific mounting means.

For examining purposes however, claim-2 is read as being encompassed by claim-1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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Claims 1-5 and 14 are rejected under 35 U.S.C. 102(a),
as being anticipated by Farwell (US 6,079,154) 2000.

Regarding **claim-1**:

Farwell teaches a plant container (living wreath) and soil retention means in the reference abstract, comprising: a receptacle (12) as cited in the instant claim, having a rear panel thereon (read as; the closed end of the U-channel) as cited, and retaining means (14) operatively (exerting a force or influence) as cited.

In the Background section of the Farwell patent, an object of the invention is disclosed as providing a planter to retain soil while being hung from a vertical surface, read as; "means for removably mounting said rear panel" as cited.

Given a reasonable interpretation consistent with the broad recitation of the instant claim, the instant invention is anticipated by Farwell.

Regarding **claim-2**:

The broad means for removably mounting as cited, is encompassed by the object of the invention of Farwell as discussed above.

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Regarding **claim-3**:

Given a reasonable interpretation consistent with the broad recitation of the instant claim, a reservoir defined within said receptacle as cited, is read as; the volume of the Farwell container, as a reservoir as cited is not clearly distinguished from the receptacle as cited in the instant claim.

Regarding **claim-4**:

Farwell includes an engagement element (68) which engages the soil (66) as cited.

Regarding **claim-5**:

The upper (and only) layer of soil of Farwell (Figure-2) is readable as a solid mass as cited, and the engagement element (68) engages the solid mass (66) as cited.

Regarding **claim-14**:

"Means for removably mounting" as cited, is readily apparent in Figure-2 (17) of Farwell.

Allowable Subject Matter

Claims 17-20 are allowed.

Claims 6-13, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Farwell does not teach a vertical retaining element as cited in instant claims 6, 17 and 19.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schurig et al. teaches a plant container having means for removably mounting as cited in the instant invention.

Bowman, Urai, Caddy, Yamashita and Tinaglia teach plant containers having soil retention means.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 703-305-5595. The examiner can normally be reached on M-Tu., Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Francis T. Palo

Francis T. Palo
Examiner
Art Unit 3644